

Major Accountability Themes of Second-Round State Applications for NCLB Waivers

Introduction

On September 23, 2011, U.S. Secretary of Education Arne Duncan announced the Obama Administration's decision to consider state requests to waive important requirements of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act (NCLB). Among the provisions that can be waived are significant aspects of NCLB accountability, such as the requirement that states set annual achievement targets calling for all students to be proficient in reading and mathematics by 2014, and the requirement that states implement specific interventions in schools and districts that fail to make adequate yearly progress (AYP) toward these targets (U.S. Department of Education, 2012).

To receive these waivers, states must apply to the U.S. Department of Education (ED) and must meet certain requirements not currently in federal law that relate to high-quality standards and assessment, differentiated accountability, teacher and principal evaluation, and elimination of administrative burden. (Box A on page 4 describes the waiver eligibility requirements in more detail.) As of May 4, 2012, 42 states, plus the District of Columbia and Puerto Rico, indicated that they would, at some point, submit waiver applications. Eleven states submitted waiver applications for the first round of review, due by November 14, 2011. As of February 15, 2012, all 11 first-round applications had been approved (U.S. Department of Education, 2012). A March 2012 report by the Center on Education Policy (CEP) analyzed the major themes in the approved first-round applications (CEP, 2012).

The deadline for submitting a second round of requests was February 28, 2012. Twenty-six states plus the District of Columbia submitted waiver applications by this deadline (U.S. Department of Education, 2012); the states include Arizona, Arkansas, Connecticut, Delaware, Idaho, Illinois, Iowa, Kansas, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nevada, New York, North Carolina, Ohio, Oregon, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Virginia, Washington, and Wisconsin. ED has also announced a submission date of September 6, 2012 for a third round of waiver applications.

This CEP report analyzes the major themes of the accountability-related provisions proposed by the 27 states that applied for the *second* round of ED reviews. (The District of Columbia, which is treated as a state under ESEA, is counted as a state in the tallies in this report.) The analysis focuses on proposed accountability changes that are common to most or all of the 27 states, rather than on the specifics of individual state proposals. Application provisions on other topics, such as teacher and principal quality, are not discussed.

General guidance documents regarding the waiver plan, as well as state request forms, have been posted on the ED Web site (U.S. Department of Education, 2012). Second-round requests are being

reviewed by both ED staff and outside peer reviewers, with final decisions made by the Secretary of Education. Peer reviewer guidance documents provide additional details about how the waiver policy is being implemented and specific forms of evidence that states must submit to show that they meet new requirements.

While states receiving waivers in the initial round of reviews have been able to implement some policy changes in the 2011-12 school year, most of the waivers granted in both the first and second rounds of review will begin to take effect in 2012-13. Guidance documents from ED establish a timeline for implementing new requirements during school years 2012-13 through 2014-15.

Many of the state waiver applications contain ambiguities that make it difficult to describe precisely how some of the proposed changes in accountability will apply in practice. For that reason, the discussion that follows includes minimum numbers of states proposing various changes, with the understanding that these numbers could increase as new accountability policies are reviewed or implemented and as ambiguities are clarified.

Key Findings

As with the 11 states approved in the initial round of NCLB waiver reviews, states submitting second-round waiver applications are proposing accountability provisions that are more complex in several respects than those in the NCLB statute. Not only will these changes result in a more diverse and complicated array of accountability systems across states, but they also will lead to greater complexity within many states.

In addition to this general finding, the analysis highlighted several other key findings:

- **Greater coordination with state accountability systems.** All 27 applicant states will integrate federal accountability provisions with those of their state accountability systems to a much greater degree than in the past.
- **Adoption of the Common Core State Standards.** All but one of the 27 applicant states (the exception is Virginia) have adopted and are implementing the Common Core State Standards (CCSS) developed through the leadership of the National Governors Association and Council of Chief State School Officers. In addition, all but one of these states (again, Virginia) are participating in one of the two state consortia that are developing assessments aligned with the CCSS.
- **Greater complexity in annual achievement targets.** All 27 states propose major and often complex changes to their Annual Measureable Objectives (AMOs)—the targets states set to measure schools' and districts' progress in raising student achievement. All of these states will continue to have AMOs but will vary widely in how they use them to make major accountability determinations, such as identifying schools for interventions.
- **Multiyear achievement goals.** All but one of the 27 applicant states will replace the NCLB goal of 100% student proficiency in 2013-14 with an alternative multiyear goal. The remaining state (Louisiana) will keep the 100% proficiency goal for 2013-14 as one of three goals but will use

achievement results based on this goal for reporting and diagnostic purposes only and will re-evaluate the 100% goal after 2014. As their alternative goal, nine of the states chose to reduce the number of non-proficient students overall and in each subgroup by half over six years, while four additional states chose a variation of this option. The remaining 14 states (including Louisiana) chose state-specific goals that vary widely.

- ***New measures of school and district performance.*** In at least 24 of the 27 states, the NCLB's Adequate Yearly Progress (AYP) concept will be supplemented or replaced by a new, state-specific primary accountability indicator. These new measures, often in the form of multifaceted performance indexes, will be used to determine whether schools are making sufficient progress, and to select low-performing schools for interventions or especially high-performing schools for rewards. In addition, at least 21 of the states will measure progress based in part on students' academic growth rather than on whether students as a group have met absolute benchmarks. Most of the state accountability measures will be more complex than the NCLB statute's AYP policies, except in their treatment of student subgroups, as explained below.
- ***Multiple performance levels for schools.*** Most of the states that have received waivers will replace the NCLB statute's AYP system, in which a school either makes or does not make AYP, with a system that uses multiple performance levels to identify schools for interventions, rewards, or other consequences.
- ***Fewer subgroups tracked for some major accountability decisions.*** While all of the applicant states apparently plan to continue reporting achievement results for all of the student subgroups specified in NCLB, at least 19 of the 27 states will combine some of these subgroups, or use one or more new subgroups, for some or all of their primary accountability determinations. Twelve states plan to base some of their most significant accountability decisions on the achievement of just two to three student groups—all students and one or two broad "disadvantaged" student groups. This replaces the NCLB approach of basing all accountability decisions on the separate performance of numerous student subgroups, including major racial/ethnic groups, students from low-income families, students with disabilities, and English language learners.
- ***Elimination of school choice and tutoring requirements.*** While the applications of several states are silent on this issue, none of the applicant states has indicated that it will continue to require all schools identified for improvement to offer students the choice of another public school. Similarly, none of these states has noted that it intends to reserve funds to the extent required by NCLB for school choice transportation and for supplemental educational services (SES), or tutoring, provided by private companies or public entities. Several applicant states indicate that school choice will continue to be available under state law or that choice and SES will be optional, not required, in Priority or Focus schools—two groups of low-performing schools designated under the waiver requirements for differentiated accountability.

The remainder of this report explains these and other findings in more detail, including examples of states proposing various new accountability policies. The accountability changes proposed in the second round of state applications are strikingly similar to those approved by ED during the first round. This suggests that states have shared information about the types of changes that ED is likely to approve or disapprove and that second-round states have closely tracked what was approved in the first round.

Box A. Conditions states must meet to be eligible for a waiver

Before being granted a waiver of NCLB requirements, states must comply with several new requirements not currently contained in NCLB or other federal statutes:

1. ***Establish “college-and career-ready” expectations for all students.*** States must adopt content standards in reading and mathematics, at a minimum; “high quality” assessments aligned with the content standards; and achievement standards for grades 3-8 and high school, at a minimum. States must continue making annual accountability determinations for all public schools, but they could base these decisions on new “ambitious but achievable” annual targets and could set different targets for different districts, schools, or student groups, as long as the standards require greater rates of improvement for those furthest behind.
2. ***Develop and implement differentiated accountability, recognition, and support policies and systems.*** As a replacement for the NCLB-prescribed interventions for schools and districts that fail to make AYP for two or more consecutive years, states must identify two groups of low-performing schools—a Priority group of the lowest-performing schools in the state and a Focus group of schools with the lowest levels of performance or graduation rates for specific subgroups or with the greatest gaps in achievement or graduation rates. States will have to develop and implement appropriate intervention policies for each group of schools.
3. ***Develop and implement teacher and principal evaluation and support systems.*** These systems must use multiple measures, including data on student growth as a significant factor in determining performance; incorporate at least three performance levels; and be considered in personnel decisions.
4. ***Evaluate their administrative and reporting requirements*** and eliminate those that are duplicative or burdensome.

Sources: Center on Education Policy, 2012; and U.S. Department of Education, 2012.

Integration of NCLB and State Accountability Systems

A key feature of the waiver applications of all 27 states is maximum integration and coordination of NCLB accountability provisions with those of state accountability systems. One state (South Carolina) will need to adopt additional state legislation to integrate state and federal accountability policies, while a second state (South Dakota) did not previously have a state accountability system according to its waiver application but is now proposing to adopt one. The existence of dual systems of accountability, often with very different ratings for individual schools, has been a major criticism of NCLB policies. Most of the states will also substantially modify their own accountability policies in the process of integrating them with revised ESEA accountability policies.

Under the NCLB statute, states are not required to apply consequences for inadequate performance to schools that do not receive federal Title I, ESEA funds for disadvantaged students, although some states

have done so to varying degrees. All of the 27 applicant states apparently intend to apply their general accountability policies to all (or virtually all) public schools, but the states vary as to whether they will place any public schools, or only schools that are participating in or eligible for Title I, in the specific categories of Reward, Priority, or Focus schools (see below) and apply consequences to these schools. Eleven of the states (Delaware, District of Columbia, Idaho, Iowa, Mississippi, Nevada, New York, Oregon, Utah, Vermont, and Wisconsin) intend to include all public schools in all aspects of their accountability plans, while only two states (Missouri and Washington) plan to select only Title I schools for the Reward, Priority, and Focus categories. Eight states (Arizona, Arkansas, Connecticut, Kansas, Maryland, North Carolina, South Dakota, and Virginia) intend to make all schools eligible for selection as Reward schools, but to consider only Title I schools for Priority or Focus status. In two states (Illinois and Ohio) only Title I schools may be selected as Priority schools, while in one state (Rhode Island) only Title I schools may be selected as Reward schools but all schools may be selected as Priority or Focus schools.

Further, several of the 27 states receiving waivers are participating in ED's Race to the Top (RTTT) and/or Differentiated Accountability Pilot programs. (RTTT is intended to spur education innovation and reform, while the Differentiated Accountability Pilot allows states to propose their own categories of low-performing schools and determine interventions for each category.) ESEA accountability provisions under the waivers will be closely aligned with those programs.

Standards and Assessments

States receiving waivers must establish college- and career-ready expectations for all students. This includes the adoption of content standards in reading and mathematics, at a minimum; aligned assessments; and achievement standards at least for grades 3-8 and one high school grade. These are the same subject areas (except for science) and grades for which standards and assessments are required by NCLB, but the standards and assessments in the waiver requirements are intended to be higher in rigor and quality. (NCLB also required states to adopt science standards and tests at three grade levels; although the waiver conditions do not mention science standards and tests, the science requirements of current law will presumably still apply.) States are also required to implement English language proficiency standards and assessments for English language learners and alternate standards and assessments for students with the most significant cognitive disabilities, which must be coordinated with the college- and career-ready standards and assessments.

To comply with the waiver requirement for college- and career-ready standards and assessments, states might adopt the Common Core State Standards and aligned assessments, as 45 states and D.C. have already done. Alternatively, they may use other standards and assessments that have been adopted by a significant number of states or have been developed by states and approved by a state network of institutions of higher education.

With the sole exception of Virginia, all of the second-round applicant states have adopted and are in the process of implementing the CCSS. In its application, Virginia states that its standards were raised to a full college- and career-ready level through a review and revision process completed in 2010 and are aligned with the CCSS. In their applications, all of the 27 states emphasize providing college- and career-ready curriculum and assessments for English language learners and students with disabilities, professional development to ease the transition to the higher standards, and expansion of higher level learning opportunities (such as Advanced Placement or dual enrollment programs).

With respect to assessments, again all of the applicant states except Virginia are participating in one of the two consortia of states that are developing common assessments aligned with the CCSS and that received grants under the RTTT program. Sixteen of the states applying for second-round waivers are participating in the SMARTER Balanced Assessment Consortium, and 10 are participating in the Partnership for Assessment of Readiness for College and Careers.

In addition, while the CCSS initiative thus far has developed standards only for math and reading/English language arts, at least 12 of the states plan to include results from assessments in additional subjects in their accountability determinations; 5 states add writing, 11 add science, 4 add history/social studies, and 1 adds "language usage." All of the applicant states appear to maintain the NCLB requirement that 95% of all students must participate in testing, although states vary in their treatment of schools and districts that fail to meet the requirement. All states at least imply that they will raise student performance standards—for example, by setting higher cut scores to define proficient performance on state tests—at least by 2014-15, when new assessments based on college- and career-ready standards are implemented. Some states (such as Connecticut, Michigan, New York, Oregon, and Rhode Island) more clearly and specifically indicate that student performance standards will be raised in the near future or have been raised recently. States expect to fully implement assessments in 2014-15 but are taking substantially different approaches to including more college- and career-ready items in their tests in the meantime.

In addition to the broadly applicable assessments discussed above, several states will consider ACT and/or SAT test scores in their primary accountability measures for high schools, in some cases requiring all high school students to take one of these tests. As indicators of college- and career-readiness, the performance indexes of some states also include participation in and/or scores on Advanced Placement (AP) and International Baccalaureate (IB) tests, dual enrollment programs, or career and technical education (CTE) certifications (such as WorkKeys).

Annual Measureable Objectives and Achievement Goals

Annual Measureable Objectives have been at the heart of the NCLB accountability process. Under the NCLB statute, these consist of the percentages of students in each designated student group who must score at the proficient level or higher in reading and math for a school or district to make AYP. Also under the NCLB statute, AMOs must rise at least once every three years and must culminate in the goal of 100% proficiency by each student group by the end of the 2013-14 school year.¹

¹In addition to the comprehensive NCLB accountability waiver option described above, the Secretary of Education has offered a more limited option for temporary relief from the rising AMOs required under the NCLB statute. States may request a waiver to use the same AMOs for school year 2011-12 AYP determinations as they used for 2010-11. Without a waiver, the AMOs for 2011-12 would be higher than those for 2010-11 in virtually all states. States seeking this AMO waiver must meet three criteria that are more limited than those for the comprehensive NCLB accountability waivers. States must adopt college- and career-ready standards; link student achievement data to relevant teachers and principals and provide that information to educators; and identify persistent gaps in achievement and graduation rates between the "all students" group and each student subgroup specified in the NCLB.

Each of the 27 states will implement major, often complex, changes to the development and application of AMOs. The simplest and most superficial revision is a change in terminology in some states—for example, replacing AMOs with Student Growth Targets (Arizona) or Accountability Performance Targets (Connecticut).

All of the second-round applicant states will continue to set AMOs, although in many states they will no longer be directly applied to certain major decisions about school performance and relevant consequences. Under the NCLB statute, if a school fails to meet *any* of its AMOs for *any* of the designated student subgroups or subjects, it fails to make AYP. If it fails to make AYP for two or more consecutive years, then it is subject to a series of consequences, at least if the school participates in Title I, ESEA. None of the 27 states will continue this model. As described below, several of these states will base some of their primary accountability decisions on the performance of only two to three student groups—usually, all students plus one or two “disadvantaged” subgroups—rather than on the numerous subgroups specified by NCLB. Also, in most of these states, the failure of any student group to meet its AMO will not directly result in the school being identified for performance consequences.

The applicant states will set AMOs (or performance targets of some sort) for all NCLB subgroups, but often just for purposes of reporting performance data and/or selecting Focus schools. AMOs will also be set for the “combination subgroups” proposed by several states (see below). A majority of the states will set AMOs for districts as well as schools. The AMOs will be based on the multiyear goal selected by each state, as explained in the next paragraph. It appears that all states will set AMOs for at least reading and math achievement and graduation rates. Achievement AMOs are generally based on the percentage of students scoring at or above the proficient level on state tests, but one state (South Carolina) will base them on average test scores. At least four states (Delaware, Kansas, Louisiana, and Nevada) will establish separate AMOs for student growth, rather than just using growth as one means to determine whether students have met an achievement AMO. One state (Kansas) will set an AMO for reductions in achievement gaps between student subgroups. At least two states (Arizona and Connecticut) will add “aspirational” AMOs for achievement, such as “growth to excellence” in addition to “growth to standard.” In some cases, such as Utah, the AMO is expressed in terms of a school score on the state’s accountability index.

Key aspects of AMOs are how they change over time and how and whether they are linked to some future goal. ED has offered applicant states three alternatives to the NCLB statute’s goal of 100% proficiency by the end of school year 2013-14. Option A is to reduce by 50% the number of non-proficient students overall and in each designated subgroup within six years. Option B calls for 100% of students to be proficient by 2019-20 based on new college- and career-ready standards. Option C is to establish an alternative goal that is similarly “ambitious but achievable.”

All but one of the 27 states will replace the NCLB goal of 100% student proficiency in 2013-14 with an alternative multiyear goal. In the remaining state (Louisiana), the 100% proficiency goal will remain as one of three goals through 2013-14, but achievement results based on this goal will be used only for reporting and diagnostic purposes, and the goal itself will be re-evaluated after 2014. Nine states (Arkansas, Delaware, Illinois, Maryland, North Carolina, Rhode Island, Utah, Vermont, and Washington) selected Option A. No state chose Option B. Eighteen states reported choosing Option C, although four of these states (District of Columbia, Mississippi, New York, and Ohio) selected goals that are very close to Option A, with just small variations. The other 14 states that chose Option C (including Louisiana) propose a variety of longer-term AMO goals:

- Iowa will set a target of a score of 85 (out of 100) on the state test to be reached within 10 years. The target seems to be essentially equivalent to 85% of students meeting the state's proficiency and growth standards, although partial credit is given for meeting either of these.
- Michigan will use 85% proficient of its students scoring proficient by 2022 as an interim goal for any school that falls below 85%. Once a school reaches 85% proficient, that school must begin working toward a goal of 100% proficient.
- South Dakota will set goals for each five-year period that vary by school performance category. Higher rates of growth in student performance will be required of schools in lower performance categories. Required rates of growth are generally expressed in terms of standard deviations based on the overall statistical distribution of performance by all schools in the state.
- In Wisconsin, school-level AMOs will require an increase in overall state performance index scores at a rate that will place each school in the state's "Meeting Expectations" category or above within four years.

The applicant states generally provide for annual changes in AMOs based on their longer-term goal, especially states that chose the Option A goal. However, some states with an Option C goal either have no explicit provision for AMO changes in the future (Louisiana, Nevada) or simply indicate that some or all AMOs will be considered for changes in the future (Idaho, Virginia). In Oregon, AMOs will be annually renegotiated between the state and each district.

Regardless of how AMOs will be calculated or how they will change over time, the 27 states vary widely in how they will apply their AMOs to accountability decisions. No state will continue the current policy of requiring all relevant student groups to meet the AMOs in reading and math for a school to make AYP or otherwise avoid being identified for improvement. While some state applications are not completely clear on this point, it appears that all will continue to determine schools' progress in meeting AMOs for all subjects and subgroups specified in the NCLB statute and will report the results. But in most of these states, the results in meeting AMOs will be used only or primarily for reporting information to the public and targeting schools for improvement efforts, and in some cases will be used for identifying Focus schools. The results will *not* be the primary or direct determinants of such major accountability decisions as identifying Priority schools. As discussed further below, accountability decisions will be made based on either an expanded series of AMOs, including factors not considered under the NCLB, or on separate accountability measures in which AMOs play a minor or indirect role, if any.

Finally, with few exceptions, AMOs under the NCLB statute may vary by grade level and subject but otherwise are supposed to be the same for all student groups and schools in each state. In the applications of most of the 27 states, however, it is either explicit or implied that some or all AMOs will vary by student group, school, and in some cases by district. AMOs will vary as follows:

- By subgroup only in six states
- By subgroup and school in four states
- By subgroup, school, and district in four states
- By school only in three states
- By individual student in one state
- By school and district in one state
- By school and school performance category in one state

For better or worse, these policy variations will eliminate a major element of consistency among states under the NCLB statute.

AYP or Alternative Primary Accountability Measures

As noted above, most of the 27 states will replace the AMO-based AYP determinations in the NCLB statute with new measures to select schools for rewards for especially good performance or consequences for inadequate performance.

At least 24 of the 27 states (all but Arkansas, Delaware, and New York) will supplement or replace AYP with a state-specific primary accountability measure. These alternative measures vary widely in their scope, complexity, and transparency. They often consider not only student proficiency and graduation rates, but also individual student growth, aggregate progress in raising student achievement or reducing achievement gaps, test participation rates, and various indicators of college- and career-readiness for high schools (such as ACT/SAT scores, CTE certifications, postsecondary attendance rates, or advanced diplomas). At least 21 states plan to use individual student growth data for at least some aspects of their primary accountability measure.

To determine progress in raising achievement, these state accountability measures often consider not only the percentage of students scoring at or above the proficient level, but also the percentage reaching one or more "advanced" performance levels beyond proficient. As explained below in the section on student subgroups, many states plan to apply their achievement measures to the "all students" group and to one or more "combination" subgroups rather than to every subgroup listed in NCLB.

To determine graduation rates, some states' accountability measures consider not only the number of students receiving regular high school diplomas within a specified number of years, but also high school "completer" rates that may include students who earn General Educational Development (GED) certificates or students with disabilities who meet the maximum age for secondary school services.

Some of these accountability measures are described in detail in the state applications, while others are clearly works in progress. In the latter case, some state applications contain what is essentially an outline of the measures to be used and how they might be modified in the future, while other state applications explicitly note that some indicators in their accountability measures are yet to be determined. Some states plan to use indicators beyond measures of student achievement or attainment, such as teacher and principal effectiveness (South Dakota), school climate (South Dakota), compliance with state law (Michigan), and various indicators of school context (Illinois).

In most cases, the AYP terminology will be replaced by a new label, such as the school letter grades proposed by some states or Illinois' Multiple Measures Index, the Maryland School Performance Index, Mississippi's Quality of Distribution Index, Nevada's School Performance Framework, or Rhode Island's Composite Index Score. Even in states that still plan to include AYP as part of their accountability measure, it will be only one of several factors used to place schools in different accountability categories or will be calculated differently than under the NCLB statute. Recent policy guidance from ED has clarified that states no longer need to make AYP determinations if they have received waivers specifically allowing this and do not include AYP in their primary accountability measure.

In essence, the new state accountability measures are performance indexes that are more multifaceted than AYP policies under the NCLB statute. For example, Illinois will base its Multiple Measures Index on the following factors:

- Outcomes, most notably graduation rates for high schools
- Achievement levels, including the percentage of students meeting standards, the percentage exceeding standards, and the percentage of reduction in achievement gaps for subgroups
- Achievement growth in reading, math, and English language proficiency
- Context, including course offerings, school climate, and (for high schools) preparedness measures such as the percentage of students receiving industry credentials or the percentage receiving a score of three or higher on AP and IB tests.

High school measures in Illinois also include achievement and growth on the ACT, CTE assessments, and other readiness measures. Schools will receive separate scores of up to 100 points for outcomes (if applicable), achievement, and growth.

Another example is the Maryland School Performance Index, which is based on achievement as measured by the percentage of all students scoring proficient or above; growth as measured by whether a school has reduced by 50% the number of students overall and in each subgroup that did not make one year's growth in reading or math; college- and career-readiness, as measured by attendance rates for all students, graduation rates, and CTE certification status; and reductions in gaps between the highest and lowest scoring subgroup in each school.

Nevada's School Performance Framework will be a 100-point index derived from indicators for achievement growth (40%), achievement status (30%), reductions in subgroup achievement gaps (20%), and other factors (attendance or climate—10%) at the elementary and middle school levels. For high schools, the Framework factors include achievement status (30%), reductions in subgroup achievement gaps (10%), graduation rates (all students and subgroups—30%), career and college readiness (advanced diplomas, remedial coursework, SAT/ACT, and AP—16%), and other factors (9th grade credits and attendance or climate—14%). All indicators except subgroup achievement gaps and graduation rates are based on all students.

Finally, the Rhode Island Composite Index Score is based on seven indicators, each of which has five levels of scoring, with a resulting range of 20-100. The indicators include the following:

- The percentage proficient (all students)
- Progress toward the 2017 proficiency goal (all students)
- The percentage of students scoring above proficient (distinction or advanced, all students)
- Consolidated subgroup performance gaps
- Growth (median student growth percentile and consolidated subgroups compared to students not in subgroups for elementary and middle schools only)
- High school graduation rates (four-, five-, and six-year rates for all students)
- High school "scaled score change" (improvement in 11th grade test scores over the previous year for all students)

School Performance Categories

Under the NCLB statute, a school either makes or does not make AYP each year. In order to make AYP, the school must meet AMOs in reading and mathematics for all relevant student subgroups, as well as meeting the 95% test participation rate requirement and an additional academic indicator (graduation rates for high schools and a state-selected factor, often attendance rates, for elementary and middle schools). A variety of accountability consequences follow from a school's failure to make AYP for two consecutive years or more. Many have criticized the current policy as a crude way of differentiating among schools that in many states identifies too many schools as in need of improvement.

This would change in the 27 states seeking second-round NCLB accountability waivers. First, as noted above, most states will replace AYP with a variety of more multifaceted measures to make accountability determinations. Second, even where a measure similar to the current AYP concept is used, schools will not have to meet every relevant AMO to avoid being identified for improvement. Finally, in most states, the "make it or don't make it" AYP approach will be replaced by a system of multiple performance levels.

The states vary substantially in their proposed number of school performance categories. For five of the applicant states, the only performance categories will be those required under the waiver program—Reward, Priority, and Focus schools. Of the states that intend to place schools in additional categories, 9 states plan to integrate the three required federal categories into their overall range of school categories, while 13 plan to place all schools into performance categories separate from the three federal categories—in other words, Reward, Priority, and Focus schools will be subsets of schools placed in other, state-specific categories.

States vary in their total number of school performance categories they plan to create. Five states will establish just the three federally-required categories. The other second-round applicants can be grouped as follows:

- Four categories (1 state)
- Five categories (6 states)
- Six categories (2 states)
- Seven categories (1 state)
- Eight categories (11 states)
- Nine categories (1 state)

The most common pattern, found in nine states, is to establish five categories of schools labeled with A, B, C, D, and F grades or with one to five stars, and to separately assign subsets of the schools receiving certain levels of grades or stars to the three federal categories of Reward, Priority, or Focus schools.

Consideration of Student Subgroups

Under the NCLB statute, states must establish and apply AMOs in reading and math not only to all students in each public school, but also to students in each of several subgroups, including major racial/ethnic groups, students from low-income families, English language learners, and students with disabilities. Test results for these subgroups are reported and used in accountability decisions only if the number of students in the group at a school meets a state-specified minimum size threshold—often 30

students, although state policies vary substantially. If *any* of these student subgroups fails meet its AMO, then the school fails to make AYP.

All of the applicant states intend to report the performance of students in each of the subgroups specified in the NCLB. While five states (District of Columbia, Iowa, Maryland, New York, and Ohio) plan to use the subgroups listed in NCLB for virtually all accountability-related purposes, most of the applicant states plan to combine some of these subgroups or use additional subgroups for some or all of their primary accountability determinations, such as identifying Reward, Priority, or Focus schools. Often, these states' proposed accountability systems focus on closing achievement gaps between the disadvantaged subgroup and students not in this subgroup.

Three states (Delaware, Idaho, Wisconsin) plan to use the NCLB subgroups generally but to combine some of these subgroups for very limited purposes, such as determining whether the subgroups of students with disabilities, English language learners, and low-income students meet minimum group size requirements. Three states plan to use the NCLB subgroups plus one or two additional subgroups for at least some accountability determinations; the additional groups consist of the lowest-performing 30% of students in Michigan, gifted students in North Carolina, and male and female students in South Carolina. Three other states plan to use NCLB subgroups for most purposes but to collapse some racial or ethnic categories. These include a collapsed category of all non-white students in Idaho; two combined categories of white, Asian, multiracial, and Pacific Islander students and of African American, Hispanic, and Native American students in Illinois; and a combined category of African American, Hispanic, Native American, and Pacific Islander students in Oregon. One state (Nevada) plans to use just the three categories of students with disabilities, English language learners, and students from low-income families, and to consider them separately for most accountability determinations but combine them when all three fall below the minimum group size.

Eleven states plan to base major accountability determinations on one or two combination subgroups. These combination groups include the following:

- The lowest-performing 25% or 30% of students in a school (Arizona, Kansas, and Mississippi)
- A collapsed group of students with disabilities, English language learners, and students from low-income families (Arkansas and Connecticut)
- A collapsed group of students with disabilities, English language learners, and students from low-income families further combined with a) African American and Hispanic students (Missouri); b) African American, Hispanic, and Native American students (South Dakota); or c) all minority students (Vermont)
- All students scoring below the proficient level (Louisiana and Utah)
- A combined group of minority students plus students from low-income families and a combined group of students with disabilities plus English language learners (Rhode Island)

Virginia plans to use a combination subgroup and modified versions of two NCLB subgroups: (1) gap group 1 consisting of students with disabilities, English language learners, and students from low-income families (unduplicated); gap group 2, consisting of African American students who are not of Hispanic origin and not already included in gap group 1; and gap group 3, consisting of Hispanic students of one or more races who are not already included in gap group 1.

The subgroups that will be used for primary accountability determinations are unclear for one state (Washington). In addition, seven states (Illinois, Iowa, Nevada, Rhode Island, Vermont, Washington, and Wisconsin) plan to reduce their minimum group size policies.

In the states with modified student subgroups, some of the primary accountability decisions and/or school grades will be based on only the “all students” group and the one or two combination subgroups. For example, these states generally plan to identify their lowest-performing, or Priority, schools based on the current performance level of all students with limited, if any, use of subgroup data in this process. In contrast, a majority of the 27 states plan to select Focus schools largely or primarily based on the achievement, and sometimes the graduation rates, of either their combination subgroups or the “all students” group.

The states that will consider one or two combination subgroups for major accountability determinations argue that their combined subgroups will incorporate a high percentage of the students in each of the separate NCLB subgroups, will promote clarity, and will increase the proportion of schools held accountable for subgroup performance because the number of students in individual subgroups in a school is often lower than the state’s minimum group size threshold. Data on the performance of the full range of individual subgroups will still be available for reporting and diagnostic purposes and will be a criterion for identifying Focus schools in at least some of these states. In other words, while states are asking to base many of their most substantial accountability decisions (such as selecting Priority schools) on just all students plus a single, consolidated subgroup of disadvantaged students, states must do something beyond reporting and diagnostic activities if any NCLB subgroup persistently fails to meet AMOs. That something may range from identification as a Focus school to targeted technical assistance and improvement plans in schools not identified as Priority or Focus schools. Thus, each of these state plans addresses the performance of each NCLB subgroup, as well as combined disadvantaged student groups, but they do so in widely varying and often complex ways.

In most of the states seeking waivers, accountability decisions will be based on more factors than just AYP, but on at least some of those factors, schools will be held accountable for the performance of fewer student groups than under NCLB. Moreover, major accountability decisions will no longer be based on whether a school has met all of the performance targets for *each* of the student groups designated by NCLB. Civil rights and advocacy groups that focus on the special needs of students with disabilities, English language learners, students from low-income families, and specific racial or ethnic groups may be concerned about this approach.

Priority and Focus Schools

Under ED’s NCLB waiver program, states receiving waivers are no longer required to identify all schools that fail to make AYP for two consecutive years or more for a series of increasingly severe consequences, including school improvement, corrective action, and restructuring. In fact, states need no longer make AYP determinations at all if AYP is not a part of the states’ new accountability measures. Instead, states must develop and implement differentiated accountability systems to identify and take action with respect to two groups of low-performing schools. The first group, Priority schools, consists of schools with the lowest performance. The number of Priority schools must equal at least 5% of all Title I schools in the state, and these schools must undergo comprehensive interventions. The second group, Focus schools, consists of schools in which the gaps in achievement or graduation rates are greatest or the achievement or graduation rates among specific student subgroups are lowest. The number of Focus

schools must equal at least 10% of all Title I schools in the state, and these schools must be subject to targeted interventions. High schools with graduation rates below 60% must be designated as either Priority or Focus schools. As noted above, several of the states receiving waivers have chosen to include not only Title I schools but also other low-performing schools in the Priority and Focus groups.

Twelve of the applicant states plan to include all schools currently receiving Title I School Improvement Grants (SIGs) in the Priority schools category, while a slightly different group of 12 states intends to include all Title I participating or eligible high schools with a graduation rate below 60% in this category. Five states (Arizona, Connecticut, Idaho, Iowa, and Virginia) plan to identify as Priority schools all schools (or all Title I schools) that fall into the lowest performance category of their accountability system—for example, all schools that receive an F grade in Arizona or all one-star schools in Idaho. In general, states plan to select *Priority* schools on the basis of the current performance level of *all* students, with limited, if any, use of subgroup data in this process.

A majority of the 27 states plan to select *Focus* schools largely or primarily based on the achievement, and sometimes the graduation rates, of either their "*combination subgroups*" or of *every student subgroup defined by NCLB*. Eight states (Arkansas, Delaware, Illinois, Kansas, Maryland, Michigan, Ohio, and South Carolina) will identify Focus schools primarily on the basis of *gaps* in performance between students in those subgroups and either (a) all students, or (b) students not in the subgroups. Nine states will identify Focus schools primarily on the basis of low *levels* of subgroup performance, and two states (North Carolina and Wisconsin) will consider both levels and gaps. At least five states (District of Columbia, Nevada, Ohio, Rhode Island, and Vermont) will also consider levels of growth or progress by subgroups.

In contrast, at least seven states (Arizona, Idaho, Iowa, Louisiana, Oregon, South Dakota, and Utah) will select as Focus schools those in their second-lowest category of performance, such as schools with a grade of D under an A-F school grading system or those that fall into the 5th through 15th percentile on a general accountability index. Some of these seven states will also include as Focus schools a subset of those schools in their lowest category that have not already been selected as Priority schools. These seven states will identify Focus schools on the basis of the full range of factors in their performance indexes; these factors generally include some indicators of subgroup performance or performance gaps, but these are usually not the dominant factors in the indexes. At least seven states (Illinois, Kansas, Louisiana, Maryland, Missouri, Ohio, and Vermont) will include among Focus schools any high schools with a graduation rate below 60% that are not already selected as Priority schools.

While a majority of the 27 states do not appear to place limits on the number of schools that might be selected as Focus schools, at least 6 states plan to limit this group to 10% of Title I schools (Arkansas, North Carolina, Rhode Island, South Carolina, Virginia and Washington), and 3 states plan to identify 10% of all public schools as Focus schools. Finally, New York proposes a distinctive policy of first identifying Focus *districts*, then identifying Focus schools within those districts.

States' waiver applications generally include a lengthy and varied list of actions and options they will use to improve Priority and Focus schools. The consequences for Priority schools tend to be substantial and comprehensive and largely mirror the options specified for schools in the restructuring stage of NCLB improvement or for persistently low-achieving schools under the Title I School Improvement Grant program. Examples include closing the school, converting it to a charter school, or replacing the principal and a substantial proportion of the school staff. For Focus schools, the consequences are more limited

and targeted on improving the performance of the lowest-achieving student groups according to data for the full range of subgroups currently designated under NCLB.

School Choice and Supplemental Educational Services in Priority and Focus Schools

Under the NCLB statute, schools that fail to make AYP for two consecutive years or more must take two specific actions. First, all schools identified for NCLB improvement, corrective action, or restructuring must, to the extent possible, offer students the option to attend other public schools not so identified in the same district. Second, schools identified for corrective action or restructuring must offer their students from low-income families the opportunity to receive supplemental educational services. Districts must reserve up to 20% of their Title I grants to pay the costs of SES and choice-related student transportation.

Some people have argued that these services should be options rather than mandates, while others believe they are essential to providing meaningful educational opportunities to students attending low-performing schools. Under ED's waiver plan, the provision of school choice and SES is no longer mandatory, and it appears that most states receiving waivers will no longer continue this practice, at least as required by NCLB.

The applications of nine states do not appear to mention school choice or SES at all, while those of five states (Connecticut, Mississippi, Nevada, Virginia, and Washington) explicitly note that neither SES nor choice will any longer be required in Priority or Focus schools. At least three states (Delaware, Louisiana, and Wisconsin) indicate that while choice and SES will no longer be required to implement ESEA, choice will continue to be available under state law. Three states (North Carolina, Oregon, and South Dakota) indicate that both choice and SES will be optional in Priority and Focus schools. In three states (Arkansas, Idaho, and South Carolina), choice and SES will be required in substantially modified form, such as modified requirements to set aside funds or changes in the nature of SES. One state (New York) will require choice but make SES optional, and two states (Illinois and Ohio) will require SES only in some cases. Finally, at least three states (Mississippi, Virginia, and Washington) explicitly note that the 20% set-aside of funds under NCLB will be shifted to support a range of services required by the improvement plans of Priority and Focus schools.

Reward Schools

A very large majority of the states (at least 23) will identify Reward schools based on both high levels of performance and high progress or growth. At least six states (District of Columbia, Illinois, Mississippi, Nevada, New York, and Vermont) will require Reward schools to have relatively low achievement gaps as well. At least six states (Arizona, Delaware, Idaho, Iowa, Maryland, and Rhode Island) will select as Reward schools those schools that receive the top category or grade in the state's school performance system or that rank in the top 5% on the state's overall performance index. Finally, at least four states (Ohio, North Carolina, South Carolina, and Wisconsin) will limit some Reward school categories to high-poverty schools.

Every applicant state will provide one or more forms of public recognition to Reward schools. In addition, a majority (at least 15) of these states plan for Reward schools to share information about

their successful practices with other schools in the state, in some cases providing potential competitive grants for this purpose. Overall, just over half (14) of the applicant states intend to provide financial awards to at least some of their Reward schools, although the amounts are often referred to as being “small” or subject to state legislative action. Finally, six states (District of Columbia, Iowa, Michigan, Mississippi, Nevada, and New York) indicate that they will reward these schools with decreased monitoring or other forms of flexibility from state oversight.

Accountability for Districts as Well as Schools

Finally, while school districts receive relatively little attention in the accountability provisions of the 27 state waiver applications, some states explicitly include performance reporting and/or consequences for districts as well as schools. A majority of the applicant states (at least 20) indicate that they will establish AMOs for, and/or apply their primary accountability measure to, districts as well as schools. Further, at least 15 states intend to make accountability determinations for districts as well as schools and will apply consequences of some sort to districts with low performance. However, these provisions are often lacking in detail.

Conclusion

Overall, the applications submitted by the 27 states seeking second-round NCLB accountability waivers, like the plans of the 11 states that received first-round waivers, represent a major shift in NCLB accountability policies. The NCLB statute established an accountability system in which the goal (100% proficiency in reading and math) and the measure of adequacy in approaching that goal (AYP) have been consistent among the states. At the same time, state content and student performance standards—especially the definition of “proficient” student performance—have varied widely, as have many technical yet important aspects of determining AYP in different states, such as whether growth models are applied. In addition, schools in the same state are often categorized quite differently under NCLB and the state accountability system. In both the states that received first-round NCLB accountability waivers and those that are seeking waivers in the second round, this approach to accountability will be replaced by a system that is more consistent in some respects but less consistent in others. Content standards, and presumably student achievement standards, will eventually become more consistent among the states, and the ratings of schools under state and NCLB accountability systems will become the same, but the measures used to determine consequences for inadequate or high performance by schools will vary tremendously in different states.

References

Center on Education Policy. (2011). *Frequently asked questions regarding the Secretary of Education's waivers of major ESEA requirements*. Washington, DC: Author.

Center on Education Policy. (2012). *Major accountability themes of approved state applications for NCLB waivers*. Washington, DC: Author.

U.S. Department of Education. (2012). ESEA flexibility [Web page]. Retrieved on April 25, 2012, from <http://www.ed.gov/esea/flexibility>.

Credits and Acknowledgments

This report was researched and written by Wayne Riddle, a consultant to CEP. Nancy Kober, a CEP consultant, edited the report. Diane Stark Rentner, CEP's deputy director, provided advice and assistance.

Based in Washington, D.C., and founded in January 1995 by Jack Jennings, the Center on Education Policy is a national independent advocate for public education and for more effective public schools. The Center works to help Americans better understand the role of public education in a democracy and the need to improve the academic quality of public schools. We do not represent any special interests. Instead, we help citizens make sense of the conflicting opinions and perceptions about public education and create the conditions that will lead to better public schools.

The Center on Education Policy receives nearly all of its funding from charitable foundations. We are grateful to the Phi Delta Kappa International Foundation, which provides the Center with general support funding that assisted us in this endeavor. The statements made and views expressed are solely the responsibility of the Center.

© Center on Education Policy, May 2012

Center on Education Policy
Graduate School of Education and Human Development
George Washington University
2140 Pennsylvania Avenue NW, Suite 103
Washington, D.C. 20037
Ph: 202-822-8065
Fax: 202-994-8859
E-mail: cep-dc@cep-dc.org
Web: www.cep-dc.org